Office of the Information Commissioner of Canada

2009–2010

Departmental Performance Report

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Message from the Information Commissioner of Canada

I am pleased to submit to Parliament the *Departmental Performance Report* of the Office of the Information Commissioner of Canada for the fiscal year ending March 31, 2010.

Over the past year, developments at home and worldwide have quickly and profoundly reshaped the means, expectations, practices and purposes of access to public sector information. This has reinforced the momentum and sense of urgency for this Office to deliver timely service to complainants and ensure that federal institutions comply with the public's right of access. The reporting year proved to be rich in challenges, achievements and lessons learned on our path to becoming more strategic and proactive in both our outlook and our day-to-day operations.

Before I was appointed as Interim Commissioner on June 30, 2009, my predecessor Robert Marleau initiated a major renewal exercise intended to enable this organization to effectively deliver on its mandate and maintain its relevance. This led to the introduction of a new business model for the OIC. Upon taking office, I made the firm commitment to further improve the effectiveness and timeliness of our core investigative function in accordance with current needs and expectations of Canadians.

Within a few months, I developed a comprehensive action plan to optimize our operations. As a result, we increased our capacity, thoroughly analyzed our inventory of complaints, and enhanced case management while monitoring performance on an ongoing basis. Corrective action was taken to meet our targets for completing both current and longstanding cases. Our success is evident in the decreasing size of our caseload and a more timely service to Canadians.

To address system-wide problems, notably the delays that plague the system, my staff conducted the most extensive report card process to date. The report benefited from the efficiencies of an integrated approach to performance reviews and systemic investigations. The exercise provided statistical data and information for a sound, fact-based assessment of delays. It also served to reinforce within the Office a solution-oriented culture that relies on evidence-based analysis in the search for the most effective remedies.

A well-functioning access regime requires discipline within all institutions in complying with their legislated obligations. To this end, I made full use of the powers and tools at my disposal. We published clear practice directions and collaborated with institutions in resolving outstanding issues. I took strong action when required, subpoenaing records, issuing recommendations directly to heads of institutions to resolve complaints, and even referring a matter to the Attorney General of Canada for review and possible prosecution.

We pursued or undertook several legal proceedings to enforce or clarify fundamental points of law and to defend our jurisdiction and powers.

As an Officer of Parliament, I continued to assist Parliamentarians in their efforts to modernize the *Access to Information Act* and the way it is administered. In all aspects of our work, I ensured that our resources are managed in accordance with sound stewardship, particularly given the environment of fiscal restraint.

We drew important lessons from our first full year's experience implementing the new business model, supported by our renewal strategies for human resources and information management. The increasing number of complex and time-consuming refusal complaints, including files remaining from our oldest inventory, calls for new or refined investigative strategies and greater analysis. We must enhance the legal support that investigators require for more complex cases while mitigating the inherent risk of greater litigation. Finally, given demographic trends and our compressed hierarchical structure, we must develop our ability to retain corporate memory and momentum in the event of management turnover.

I am proud of the success achieved by this Office during 2009–2010. We will build on these achievements and the lessons learned as we stand ready to address even more challenging cases and issues mid-way into our five-year renewal program. The dedication of my staff, their discipline and their capacity to innovate will generate further benefits for Canadians in terms of greater government transparency and accountability.

SECTION I: OVERVIEW

Raison d'être

The Office of the Information Commissioner of Canada (OIC) ensures that the rights conferred to information requesters by the *Access to Information Act* are respected, which ultimately enhances transparency and accountability across the federal government.

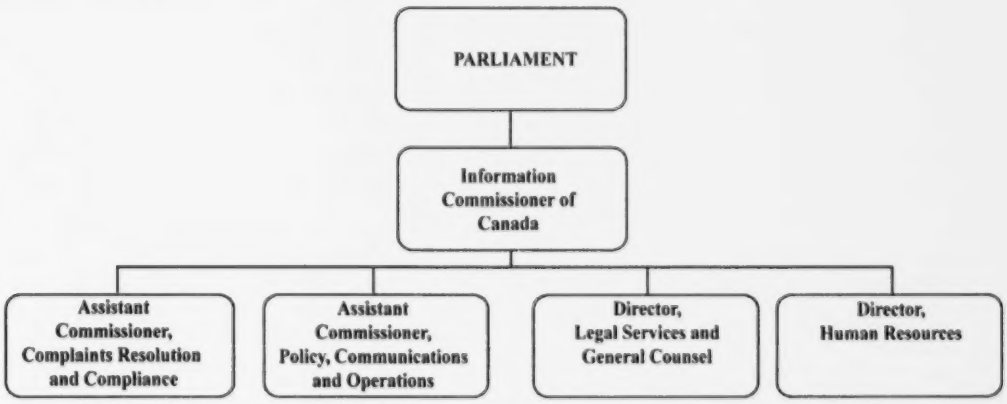
Responsibilities

The Office is an independent public body which was established in 1983 under the *Access to Information Act* — Canada's freedom of information legislation — to assist the Information Commissioner of Canada in her role as Ombudsperson and Officer of Parliament.

The Office is primarily responsible for carrying out fair, efficient and confidential investigations of complaints and issues of concern on how federal institutions handle access to information requests from the public. In carrying out this responsibility, it gives complainants, heads of federal institutions and all third parties affected by complaints a reasonable opportunity to make representations.

In addition, the Office supports the Information Commissioner in her advisory role to Parliament and parliamentary committees on all access to information matters. Where required, it assists the Commissioner in bringing issues of interpretation and enforcement of the law before the Federal Court. In delivering its mandate, the Office promotes Canadians' right to access information held by federal institutions and advances a pro-disclosure culture around public sector information.

The organizational structure of the Office of the Information Commissioner is shown in the diagram below.


PARLIAMENT
Information Commissioner of Canada
Assistant Commissioner, Complaints Resolution and Compliance
Assistant Commissioner, Policy, Communications and Operations
Director, Legal Services and General Counsel
Director, Human Resources

The **Complaints Resolution and Compliance (CRC) Branch** carries out investigations and dispute resolution efforts to resolve complaints.

The **Policy, Communications and Operations Branch** assesses federal institutions' performance under the Act, conducts systemic investigations and analysis, provides strategic policy direction, leads the Office's external relations with government and Parliament, and provides strategic and corporate leadership in the areas of financial management, internal audit and information management. This Branch is also responsible for the OIC's Access to Information and Privacy function.

The **Legal Services Branch** represents the Commissioner in court cases and provides legal advice on investigations, legislative issues and administrative matters.

The **Human Resources Branch** oversees all aspects of human resources management—from staffing and development to retention strategies—and provides advice to managers and employees on human resources issues.

Strategic Outcome and Program Activity Architecture

Strategic Outcome	*Program Activities*
Individuals' rights under the *Access to Information Act* are safeguarded.	Compliance with access to information obligations Internal services[1]

Summary of Performance

2009–10 Financial Resources ($ thousands)[2]

Planned Spending	Total Authorities	Actual Spending
8,505	11,645	11,463

[1] Commencing in the 2009-2010 Estimates cycle, the resources for Program Activity: Internal Services are displayed separately from other program activities. They are no longer distributed among the remaining program activities, as was the case in previous Main Estimates. This has affected the comparability of spending and FTE information by program activity between fiscal years.

[2] At the outset of the year, the Office's planned spending was $8,505K. Through Main Estimates and Supplementary Estimates, the Office was allocated total authorities of $11,645K. Actual spending was $11,463K.

2009–10 Human Resources (FTEs)

Planned	Actual	Difference[3]
82	78	4

Summary of Performance against Targets

The following table contains concise information about the OIC's progress in achieving its strategic outcome during the reporting period. This information is discussed in further detail in Section II, under Performance Analysis.

Strategic Outcome: Individuals' rights under the *Access to Information Act* are safeguarded		
Performance Indicators	**Targets**	**2009–2010 Performance**
Quality and timeliness of the investigation process (including investigation, legal review, approval and report of findings)	90% of investigations adhere to quality assurance standards at first round of review.	In 2009–2010, capacity build-up and improvements to case management substantially increased the number and timeliness of completed investigations. • The Office closed 2,125 complaints during the reporting period, representing a 20% increase from the previous year. • The older, pre-April 2008 inventory of complaints diminished from 1,105 to 387, a decrease of 65% over the year. • The average completion time of new cases fell by almost a third. The Office has undertaken to improve its investigative processes for different types of investigations. It will also review and refine its performance standards and quality control mechanisms for future reporting.
Reach to, and feedback from, stakeholders (i.e., the public, information requesters, ATIP community, others) through	Stakeholders are reached through having ready access to the Office's publications, tools and information namely via a website	Efforts to maximize the OIC's influence through partnerships and information included, among others:

[3] In order to eliminate the historical backlog of complaints, the Office contracted consultants and temporary help service throughout the year. These resources are not included in the figures above.

public events, speaking engagements, access to web-based information and other tools	that is redesigned to be comprehensive, up-to-date and user-friendly. Stakeholders' feedback is generally positive.	• The launch of a new, user-friendly website, which was generally well received as indicated by immediate feedback from a wide range of users. • Publication of practice directions (3) that clearly set out the procedures the OIC follows to accept, investigate and resolve complaints • Online consultations on proposed changes to disposition categories for complaints. • Collaboration with provincial and territorial counterparts to make Right to Know Week 2009 a national event. • Eleven speaking engagements and presentations before various domestic and international audiences.
Proportion of OIC recommendations that are adopted following investigations of complaints/report cards	• 95% of recommendations from investigations of complaints are adopted. • 80% of report card recommendations are adopted.	• Based on information obtained during follow-ups with institutions and complainants, 99% of recommendations from investigations of complaints were adopted. • Follow-ups to the report card process for 2007–2008 indicated that about 70% of recommendations from that process were implemented in whole or in part within the following year. Among the ten institutions involved, three significantly improved their performance (CBSA, RCMP, PWGSC) while three others had worse performance levels (PCO, NRCAN, DFAIT). • It is worth noting that an increasing number of institutions report on their progress in implementing recommendations in their own corporate documents or websites.
Proportion of court cases where judgments supported OIC representation (either to sustain or clarify interpretation of related statutes) and/or where OIC evidence was considered as part of court deliberations	90% of court judgments either supported OIC representation and/or considered OIC evidence.	• In 2009–2010, Office counsel participated in a number of court proceedings – including four major cases before the Supreme Court – effectively communicating the perspective of the Information Commissioner on various

		access-related matters. • The Office is currently reviewing its performance indicators and targets for the legal function to better reflect the various contributions of Legal Services within the OIC as well as the complexity of legal proceedings in terms of issues and outcome.
Value of OIC information and advice provided to Parliamentarians and parliamentary committees	80% of relevant parliamentary committee reports refer to OIC advice. OIC received positive feedback from Parliamentarians, Committee Chairs and members.	• In June 2009, the House of Commons Standing Committee on Access to Information, Privacy and Ethics (ETHI) tabled a report on the renewal of the *Access to Information Act*, in which it agreed with all but one of the recommendations made by the Information Commissioner. • Representatives of the Office appeared five times before the same Committee in 2009–2010. During the Commissioner's appearance on March 30, 2010, the Committee commented favourably on the work performed by the OIC.

($ thousands)

Program Activity	2008–2009 Actual Spending	2009–2010[4]			
		Main Estimates	Planned Spending	Total Authorities	Actual Spending
Compliance with access to information obligations	9,834	6,230	6,230	7,966	7,894
Internal services	See footnote 1	2,275	2,275	3,679	3,569
Total	9,834	8,505	8,505	11,645	11,463

[4] In 2009–2010, the Office had a variance of $3,140K between its planned spending and the total authorities it was granted over the year. This can be explained by the following:

- new funding received to modernize and improve the Office's business processes;
- the Office received compensation to meet requirements of recently signed collective agreements;
- there was an operating carry-forward;
- the Office was reimbursed for a pay list shortfall; and
- there was an adjustment to the Employee Benefit Plan contributions.

Contribution of Priorities to Strategic Outcome

The following table provides information on the linkages between the OIC's operational and management priorities for 2009–2010 and its single strategic outcome. The Performance Analysis subsection in Section II further substantiates the performance status assigned here.

Operational Priorities	Type	Status[5]
Improve service delivery to complainants An access to information regime where complaints to the Information Commissioner are resolved fairly, confidentially and efficiently, is essential to ensuring transparency and openness of government.	**Ongoing**	**Mostly met.** In 2009–2010, we developed and started implementing a comprehensive action plan to maximize our efficiency gains and provide more timely and effective response to complaints.[6] In addition to building our investigative capacity (see below), we audited and adjusted our intake and early resolution processes while closely monitoring our progress on files. We enhanced our case management by devising new approaches and strategies. The Information Commissioner also made full use of the tools and powers at her disposal, taking strong action when required. Our annual report for 2009–2010 provides examples of these strategies and powers in action.[7] As a result, we increased the number of cases closed this year by 20%, and reduced the number of longstanding complaints (from before April 2008) by 65%. We also shortened the overall average time to complete our more recent complaints by 29%. Our goal is to substantially increase the number of administrative and other straightforward complaints resolved within 90 days. We also need to enhance our analytical capacity to effectively deal with an increasing number of complex, high-priority cases and close the remaining files from our oldest inventory.

[5] The performance status takes into account the percentage of planned activities and outputs that were successfully completed during the reporting year. Accordingly:

- **Met All** means that 100% of the expected level of performance for the priority identified in the corresponding *Report on Plans and Priorities* was achieved during the fiscal year.
- **Mostly Met** means that 80% to 99% of the expected level of performance for the priority identified in the corresponding *Report on Plans and Priorities* was achieved during the fiscal year.

[6] http://www.oic-ci.gc.ca/eng/abu-ans_cor-inf-inf-cor_int-aud-ver-int.aspx

[7] http://www.oic-ci.gc.ca/eng/rp-pr_ar-ra_2009-2010.aspx

Increase compliance among federal institutions through performance assessments and investigation of systemic issues By integrating annual performance reviews and systemic investigations, the Office can be more efficient in identifying and addressing compliance issues. The discussions, reports and recommendations that result from the process also encourage and facilitate greater self-compliance among all institutions for the benefit of information requesters.	**New**	**Mostly met.** The OIC fulfilled all its commitments to foster compliance across the system. However, as mentioned above, follow-ups to the report card process for 2007–2008 indicated that about 70% of recommendations from that process were implemented in whole or in part within the following year. In July 2009, the Office published its first Three Year-Plan on Report Cards[8] and Systemic Issues. In accordance with this Plan, we conducted an unprecedented report card exercise in 2009–2010, which involved 24 federal institutions representing 88% of all access requests. Tabled before Parliament in April 2010, the Special Report entitled *Out of Time*[9] provided a fact-based assessment of the extent and immediate causes of delay across the system. It also took stock of the progress achieved by institutions to address previously identified systemic issues. The subsequent follow-up will inform us on the extent to which institutions have improved compliance as a result of this year's process. In addition, through investigations and legal proceedings, we reviewed the experience of institutions that became subject to the Act in 2006-2007, under the *Federal Accountability Act*.[10] Given their lack of experience in the area, these institutions faced significant challenges in complying with their legal obligations. Working with them to overcome their obstacles provided invaluable insight into broad-based issues that may be affecting institutional performance across the system. A number of these institutions will be formally assessed in 2010-2011 as part of our report card process.
Modernize access to information In order to fully achieve the purpose of the *Access to Information Act*, it is imperative to modernize both the legislation and the way it is administered to reflect the complex information environment of the 21st century.	**Previously committed to**	**Mostly met.** The OIC provided full support to Parliament in its efforts to influence the modernization of access to information. We continued our work on the development of legislative and administrative initiatives. In June 2009, the ETHI Committee agreed with all but one of the 12 recommendations made by the Information Commissioner on amendments to the Act. The government responded that any legislative amendments must be examined in the context of administrative alternatives, and advised

[8] http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_3_yrs_plan.aspx
[9] http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009.aspx
[10] http://www.oic-ci.gc.ca/eng/rp-pr_ar-ra_2009-2010_8.aspx

		the Committee that legislative reform would require extensive consultations with stakeholders. In a Special Report to Parliament,[11] the Office made several recommendations to the Treasury Board Secretariat (TBS) on improvements to the administration of the Act. TBS has developed different instruments to address some of the OIC concerns (e.g. Proposed Directive on the Administration of the *Access to Information Act* and the Directive on Recordkeeping[12]). However, it will take a few years before we see any tangible results.
Serve as an exemplary model for the access to information process Being subject to the *Access to Information Act*, the Office has the duty and opportunity to be a centre of expertise and a leader among federal institutions on how to effectively process access to information and privacy requests. This also allows the Office to make a significant contribution to the transparency and openness of government.	**New**	**Met all.** Through its ATIP function, the Office has shown exemplary performance in the processing of access requests. Although we received fewer requests in 2009–2010 than previously, these requests accounted for more than 56,000 pages to review, a 40% increase over 2008–2009. We had no deemed refusals in 2009–2010 and took a minimal amount of extensions (3). Where necessary, the ATIP unit prepared interim releases to ensure requesters get documents as quickly as possible. The Office upheld the duty to assist requesters at each step of the process. There was only one complaint during the reporting period about how we handled an access request. The Information Commissioner ad hoc, who independently investigates such complaints, found it to be "unsubstantiated.[13]" During the reporting period, we also spread the message about the importance of proactive disclosure through the wide range of corporate documents and disclosure logs available through our revamped website.

Management Priorities	Type	Status
Build organizational capacity Our ability to effectively deliver on our mandate largely depends on having the right number of people with the right skills set.	**Previously committed to**	**Mostly met.** To improve the investigative function, the Office invested in recruiting, training and retaining its pool of skilled resources. Guided by our integrated business and human resources strategy,[14] we staffed our investigative teams to near capacity, developed in-house training, and implemented an

[11] http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009.aspx
[12] http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=16552&section=text
[13] During the reporting period, the Hon. W. Andrew MacKay, as Information Commissioner ad hoc, performed all of the powers, duties and functions set out in the *Access to Information Act* for the purpose of receiving and investigating independently any complaint about the way the Office of the Information Commissioner handles requests for information.
[14] http://www.oic-ci.gc.ca/eng/rr-sl-odi-adi.aspx

		enhanced career development program. A full year's experience with our new business model, as well as an in-depth knowledge of our complaints inventory, indicate the need to enhance our legal function and to integrate more analytical capabilities within our skills set to align our human resources with current business requirements.
Align IM/IT with business needs and values A modern IM/IT infrastructure is essential to provide investigators with effective tools to meet workload targets, to deliver on ATIP responsibilities and to provide high levels of service to Canadians.	**New**	**Met all.** The Office successfully completed year one of a five-year strategy to enhance its information management and information technology (IM/IT) capabilities. We implemented a comprehensive information management program and took innovative approaches in applying information technology to support investigations. We aligned our IM/IT security policies with federal standards, invested in our IT infrastructure and contributed to a greener organization. At the end of the year, the Office was ahead of schedule and started three initiatives scheduled for 2010-2011.
Improve planning and reporting Sound governance starts with comprehensive, reliable and integrated planning and reporting. There are also clear and direct linkages between these requirements and the achievement of strategic objectives.	**New**	**Met all.** We continued to improve our financial management practices and governance in 2009–2010. We received an unqualified audit opinion from the Office of the Auditor General on our March 31, 2010 financial statements. We also received an A grade – up from a D the year before – from the Office of the Receiver General for providing more accurate and timely reporting of financial information to Parliament and Canadians. Our integrated business/human resources plan has enabled us to proactively ensure the resources and skills needed to meet our ongoing and emerging workload and obligations.

Risk Analysis

The Office's *Report on Plans and Priorities* for 2009–2010 identified a number of external and internal factors that were expected to influence the operating environment and, therefore, our progress in achieving our strategic objective.

Workload Risks

To address workload risks, we started implementing a new business model in 2008–2009. We have undertaken to improve our standards of service and to set out clear investigative processes for different types of investigations. As a result of an internal audit[15] of our intake and early resolution units, we adjusted our case management process

[15] http://www.oic-ci.gc.ca/eng/abu-ans_cor-inf-inf-cor_int-aud-ver-int.aspx

to maximize efficiency gains and provide a more timely and effective response to complaints. Improvements include monitoring our progress on files, adopting a portfolio approach to investigations and dedicating a team to longstanding cases.

The year 2009–2010 was unprecedented in terms of investigations completed. However, a large volume of cases remain, including complex and time-consuming refusal complaints, which tend to require greater analysis and special analytical skills. In addition, unexpected fluctuations in the number of new complaints could further compromise the Office's ability to conduct timely investigations and deliver on its mandate.

Human Resource Risks

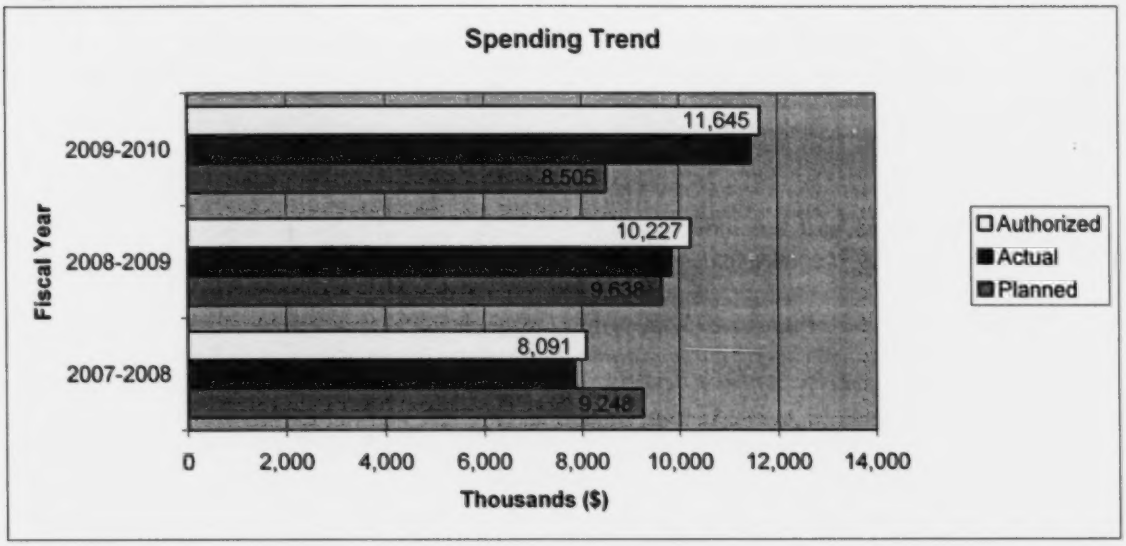
Recruiting and retaining an adequate number of knowledgeable and experienced resources were also identified as a risk. We developed an integrated business and human resources plan with key strategies to address this risk. During the reporting period, the Office staffed the investigative teams to near capacity. We also engaged experienced investigators on contract to work on the oldest and most complex cases, while we endeavour to build this area of expertise and analytical capability internally. The Office also enhanced its in-house training and its career development program for investigators.

Upcoming retirements and limited career progression within the Office's executive cadre heighten the risk of corporate memory loss. Senior management positions at the OIC rely on unique skills and experience, and support the Commissioner in meeting her mandate. A comprehensive talent management strategy is needed to ensure appropriate succession plans. In the event of a turnover, it is also important that systems be in place to capture knowledge and enable it to be transferred.

IM/IT Risks

Finally, potential challenges in implementing our five-year IM/IT strategy could jeopardize the Office's renewal plans. Ineffective IM systems, processes, and practices could lead to significant losses of knowledge and corporate memory, while impeding our ability to effectively serve Canadians. Given its mandate, the Office is expected to be a leader in information management and access to information.

Expenditure Profile



The figure above illustrates the Office's spending trend from 2007–2008 to 2009–2010. From 2007–2008, core spending increased to meet ATIP and internal audit obligations introduced by the *Federal Accountability Act*. In 2009–2010, actual spending also increased primarily as a result of new funding obtained to modernize and improve business processes. In 2009–2010, the Office lapsed $182K.

Voted and Statutory Items

($ thousands)

Vote 40 or Statutory Item (S)	Truncated Vote or Statutory Wording	2007–2008 Actual Spending	2008–2009 Actual Spending	2009–2010 Main Estimates	2009–2010 Actual Spending
40	Operating expenditures	7,012	8,990	7,540	10,326
(S)	Contributions to employee benefit plans	844	844	965	1,137
	Total	7,856	9,834	8,505	11,463

In addition to new funding received to modernize the Office's business processes, the following explains the difference between the Main Estimates and the actual spending in 2009–2010:

- the Office received compensation to meet requirements of recently signed collective agreements;
- there was an operating carry-forward;
- the Office was reimbursed for a pay list shortfall; and
- there was an adjustment to the employee benefit plan contributions.

SECTION II: ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

Strategic Outcome

All of the Office's program activity efforts aim to achieve its single strategic outcome, which is to ensure that individuals' rights under the *Access to Information Act* are safeguarded.

As the ombudsperson responsible for investigating access complaints against federal institutions, the Information Commissioner represents an independent source of expert knowledge with a unique perspective on freedom of information and the importance to democracy of transparency and openness in government. In order to maximize the Commissioner's and the Office's influence and promote requesters' rights, the Office must complement its investigative work by sharing its expertise with stakeholders and being as transparent as possible about its decisions and ways of doing business.

The following section describes the Office's achievements against its expected results, performance indicators and targets, along with the relevant financial and human resources information.

Program Activity by Strategic Outcome

Program Activity: Compliance with Access to Information Obligations					
2009–2010 Financial Resources ($ thousands)			2009–2010 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
6,230	7,966	7,894	59	54	5

Expected Results	Performance Indicators	Targets	Performance Status	Performance Summary
1. Requesters benefit from a fair and effective complaints resolution process	Quality and timeliness of the investigation process (including investigation, legal review, approval and report of findings)	90% of investigations adhere to quality assurance standards at first round of review	Mostly met	See Performance Analysis below.
2. Stakeholders understand the role and perspective of the OIC in ensuring compliance with	Reach to, and feedback from, stakeholders (i.e., the public, requesters, ATIP coordinators	Stakeholders reached through having ready access to the Office's publications, tools and information	Met all	

the *Access to Information Act*.	community, other) through public events, speaking engagements, access to proper web-based and other tools and information	namely via a Web site that is redesigned to be comprehensive, up-to-date and user-friendly; and stakeholders feedback generally positive		
3. Federal Institutions meet their obligations under the *Access to Information Act*.	Proportion of OIC recommendations that are adopted following investigations of complaints /report cards	95% of complaints investigation recommendations are adopted and 80% of report card recommendations are adopted	Mostly met	
4. The Courts receive useful representations and relevant evidence about access issues, the proper interpretation of the provisions of the *Access to Information Act*, related statutes, regulations and jurisprudence.	Proportion of court cases where judgments support OIC representation (either to sustain or clarify interpretation of related statutes) and/or where OIC evidence was considered as part of court deliberations	90% of court judgments either support OIC representation and/or consider OIC evidence	Mostly met	
5. Parliament receives clear, relevant information and timely, objective advice about the access to information implications of legislation, jurisprudence, regulations and policies.	Value of OIC information and advice provided to Parliamentarians and Parliamentary Committees	80% of relevant Parliamentary Committee reports refer to OIC advice; positive feedback from Parliamentarians, Committee Chairs and members	Met all	

Starting with the 2009-2010 Estimates cycle, resources for internal services must be displayed separately from the OIC's core program activity. Consequently, the Office will conduct a benchmarking exercise to establish relevant expected results, reliable performance indicators and realistic targets for internal services.

Program Activity: Internal Services					
2009–2010 Financial Resources ($ thousands)			2009–2010 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
2,275	3,679	3,569	23	24	(1)

Benefits for Canadians

Under the *Access to Information Act*, anyone who makes a request for information to a federal institution and is dissatisfied with the response or the way it was handled has the right to complain to the Information Commissioner. The Office is committed to investigating these complaints in a fair, efficient and confidential manner. This investigative function is crucial to safeguarding the rights of individual Canadians to access public sector information.

To maximize compliance across federal institutions and reduce the number of complaints it receives, the Office takes a proactive approach to widespread or recurring non-compliance issues by investigating their root causes and recommending appropriate solutions. The Office also uses a variety of tools of general and specific applications to extend the impact of its investigations and systemic actions. This in turn maximizes service to Canadians.

In the same spirit, the Office's performance assessments, parliamentary relations and all related communications activities and collaborations focus on ensuring that Canadians know that they have the right to complain about the way their information requests are handled and that institutions have a responsibility to respond to those requests as quickly and completely as possible within the legal deadlines.

Performance Analysis

1. Requesters benefit from a fair and effective complaints resolution process.

In 2009–2010, the Office closed 2,125 complaints, representing a 20 percent increase in completed cases from 2008–2009. With the exception of 1989–1990 (when we closed 3,011 files and three quarters of which involved one institution), this is the highest number of cases we have closed in our 27-year history. We also reduced by nearly one third the average time it took us to conclude investigations into our more recent complaints.

The number of open cases decreased nearly every month, continuing the downward trend that began in the summer of 2008. Over the reporting period, our caseload decreased by 17 percent (436 files). This drop in caseload includes a steady decrease in the number of longstanding complaints (dating from before April 1, 2008). We started the year with 1,105 of these files; by year-end, that number had shrunk to 387, a decrease of 65 percent.

These achievements resulted directly from a concerted effort to improve our investigative function, based on a detailed assessment of our caseload and building on the initial success of the new business model introduced in 2008–2009.

Guided by an enhanced tracking and reporting system, we took decisive actions to maximize our efficiency gains. Our first priority was to hire and train new staff to bring our workforce up to full strength. We also honed our approach to managing cases and made crucial adjustments to our processes.

The Information Commissioner made full use of all the powers and tools at her disposal to maximize adherence to legislative requirements, as set out in our compliance continuum.[16] We collaborated with all stakeholders during investigations in the search for the best solutions to complaints. The Commissioner took a firm hand when required, subpoenaing records, conducting examinations under oath, sending heads of institutions final recommendations under the Act to resolve complaints, and even referring a matter to the Attorney General of Canada for review and possible prosecution.

2. Stakeholders understand the role and perspective of OIC in ensuring compliance with the *Access to Information Act*.

Collaboration with our stakeholders and partners in the access to information regime — institutions, citizens, domestic and international counterparts and interest groups — is key to enhancing our effectiveness and achieving our strategic outcome. Partnerships are crucial to our efforts to advance access to information and transparency issues.

We regularly meet with our provincial and territorial counterparts in person or by teleconference. In 2009–2010, this collaboration contributed to making the Right to Know Week a national event. Right to Know Week is an annual event that celebrates the fundamental principles of freedom of information while bringing together prominent experts in the field.

In March 2010, we launched a new and improved website that immediately received positive feedback from users. In the spirit of transparency and accountability, the new website provides a much more comprehensive view of the work we do. In the Reading Room section, users can find information through a full range of reports. We also post the access to information requests we receive. Interested readers may ask informally for the documents that we released in response to each request.

[16] http://www.oic-ci.gc.ca/eng/rp-pr_ar-ra_2008-2009_9.aspx

3. Federal institutions meet their obligations under the *Access to Information Act*.

The report card process undertaken in 2009–2010 reviewed how 24 federal institutions performed in processing access requests during the previous year. These institutions accounted for 88 percent of all access requests, the largest sample we had ever looked at in a year. We found that 11 institutions performed reasonably well, while 13 performed below average or worse.[17]

The report cards highlighted issues that have a detrimental impact on the access to information regime. In addition to chronic delays, systemic issues include a high volume of lengthy inter-institutional consultations and flawed or ill-enforced delegation for access to information decisions within institutions. These two issues are being examined more closely as part of a systemic investigation initiated in May 2010.

One noteworthy development in 2009 was the launch of a three-year plan[18] to bolster our report card process to get to the root causes of delay in the system. The plan includes an integrated approach to compliance assessment, combining institutional performance reviews and systemic investigations.

4. The courts receive useful representations and relevant evidence about access issues, the proper interpretation of the provisions of the *Access to Information Act*, related statutes, regulations and jurisprudence.

A fundamental principle of the *Access to Information Act* is that decisions on disclosure should be reviewed independently of government. The first level of review is by the Office through our investigation process. The second level of review is by the Federal Court, once our investigation concludes that a refusal complaint is substantiated and the institution refuses to follow our recommendation to disclose the information.

In 2009–2010, our work in the courts led to progress on several ongoing and new cases that have an important impact on the access to information regime. For example, we continued to seek access to records held within ministers' offices and the Privy Council Office. As a result, the Information Commissioner was granted leave to appeal Federal Court of Appeal decisions to the Supreme Court, with a hearing tentatively scheduled for October 2010. We have also become party to a court case against the Canadian Broadcasting Corporation to protect the reach of our investigative powers under section 68.1 of the Act.

5. Parliament receives clear, relevant information and timely, objective advice about the access to information implications of legislation, jurisprudence, regulations and policies.

In 2009–2010, the Information Commissioner appeared five times before the ETHI Committee. Discussions focused on systemic issues affecting access to information in

[17] http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009.aspx
[18] http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_3_yrs_plan.aspx

Canada, our 2008–2009 annual report, funding issues at the OIC, as well as possible reforms to the *Access to Information Act*. In June 2009, the ETHI Committee tabled a report on the renewal of the *Access to Information Act*, in which it adopted all but one of the 12 recommendations for immediate action made by the Information Commissioner.

Lessons Learned

In response to considerable challenges in delivering on our mandate, the Office initiated major structural and operational changes in 2008–2009. The goal was to improve our core investigative function and ensure diligent stewardship of our operations to deliver high quality services to Canadians.

In 2009–2010, we completed a comprehensive review of our complaints handling process. This exercise as well as the intelligence and expertise gained during the reporting period have allowed us to become more strategic and proactive in the way we conduct our investigations. The in-depth knowledge of our complaints inventory — of its composition and evolution — is guiding us in further refining strategies to resolve complaints more quickly and efficiently. However, the increasing number of complex refusal complaints, including our oldest remaining files, calls for greater analytical capacity. We must also reinforce our legal function to ensure the legal support our investigators need and to mitigate the risk of greater litigation associated with more complex cases.

We will capitalize on our strengths and on the success of our new business processes to date to tackle the work and the challenges that remain ahead of us. As momentum is building nationwide to redefine the requisites for government openness, the ombudsman responsible for access to information must demonstrate efficiency and timeliness in resolving issues and complaints, while promoting by example the most up-to-date principles and practices in proactive transparency.

SECTION III: SUPPLEMENTARY INFORMATION

Financial Highlights

The OIC received additional funding of $2.5M in 2009–2010 to modernize and improve business processes and conduct activities in support of the Commissioner's mandate.
The additional funding stems from a request submitted to the Advisory Panel on the Funding and Oversight of Officers of Parliament and recommended to Treasury Board Ministers. This request was based on an in-depth analysis of OIC organizational priorities, workload drivers and resource levels. It took into account internal reallocation of resources and efficiency improvements derived, in particular, from the Office's streamlined investigations management process and IM/IT renewal initiatives.

As a result of this funding, more staffing resulted in greater salary expenditures. The OIC's tangible assets also increased due to a refit of office space to accommodate the additional resources.

The financial highlights presented below are a general overview of the OIC's financial position and operations. The audited financial statements can be found on the OIC website.[19]

(in $)

Condensed Statement of Financial Position As at March 31	**% Change**	**2009–2010**	**2008–2009**
ASSETS			
Total Assets	0%	1,644,864	1,651,640
TOTAL	0%	1,644,864	1,651,640
LIABILITIES			
Total Liabilities	10%	2,690,780	2,447,116
EQUITY			
Total Equity	31%	(1,045,916)	(795,476)
TOTAL	0%	**1,644,864**	**1,651,640**

(in $)

Condensed Statement of Operations For the year ended March 31	**% Change**	**2009–2010**	**2008–2009**
EXPENSES			
Total Expenses	17%	13,420,475	11,503,162
REVENUES			
Total Revenues	-62%	199	525
NET COST OF OPERATIONS	17%	**13,420,276**	**11,502,637**

[19] http://www.oic-ci.gc.ca/eng/abu-ans_cor-inf-inf-cor_oag-report-rapport-bvg_rel-doc-doc-rel_4_finance-statements-etats-financier.aspx

The following charts illustrate the breakdown of OIC assets, liabilities and expenses in 2009–2010.